

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JOHN ANTHONY ADAMS, #592579,

Petitioner,

v.

CASE NO. 13-CV-10735
HONORABLE GEORGE CARAM STEEH

LINDA TRIBLEY,

Respondent.

_____ /

ORDER DENYING PETITIONER'S MOTION FOR SUMMARY JUDGMENT

Michigan prisoner John Anthony Adams ("Petitioner") has filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. Respondent has filed an answer to the petition and Petitioner has filed a reply to that answer. The matter is now before the Court on Petitioner's motion for summary judgment, essentially seeking habeas relief on his claims.

Federal Rule of Civil Procedure 56(c) provides that summary judgment is proper:

If the pleadings, depositions, answers to interrogatories and admissions on file, together with affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law.

Fed. R. Civ. P. 56(c). Although the parties' pleadings and the state court record have been filed in this case, the Court has yet to consider those materials in detail. Based upon an initial review of the record, however, the Court is unable conclude that there is no genuine issue of material fact or that Petitioner is entitled to judgment as a matter of law. As such, summary judgment is inappropriate. Furthermore, a default judgment is unavailable in a

federal habeas proceeding. Allen v. Perini, 424 F.2d 134, 138 (6th Cir. 1970). The Court will address the merits of the case in a forthcoming opinion. Accordingly, the Court **DENIES** Petitioner's motion for summary judgment.

IT IS SO ORDERED.

Dated: June 16, 2015

s/George Caram Steeh
GEORGE CARAM STEEH
UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

Copies of this Order were served upon attorneys of record on June 16, 2015, by electronic and/or ordinary mail and also on John Adams # 592579, Central Michigan Correctional Facility, 320 N. Hubbard, St. Louis, MI 48880.

s/Barbara Radke
Deputy Clerk